

DOCKET NO. 2003.07.013.WSO
U.S. SERIAL NO. 10/620,402
PATENT

REMARKS

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Claims 1-21 were originally filed in the present application.

Claims 1-21 are pending in the present application, and were each rejected.

No claims have been allowed.

Reconsideration of the claims is respectfully requested.

I. CLAIM REJECTION UNDER 35 U.S.C. § 103

In Sections 2 and 3 of the June 7, 2007 Office Action, the Examiner rejected Claims 1-21 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0095527 to *Shanbhag*. (hereafter, simply "Shanbhag") in view of U.S. Patent No. 6,711,414 to *Rinne*, (hereafter, simply "Rinne").

In rejecting claims under 35 U.S.C. § 103(a), the examiner bears the initial burden of establishing a *prima facie* case of obviousness. (*In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). See also *In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984)). It is incumbent upon the examiner to establish a factual basis to support the legal conclusion of obviousness. (*Id.* at 1073, 5 USPQ2d at 1598). In so doing, the examiner is expected to make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), viz., (1) the scope and content of the prior art; (2) the differences between the prior art and the claims at issue; and (3) the level of ordinary skill in the art. In addition to these factual determinations, the examiner must also provide "some articulated reasoning with some

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rational underpinning to support the legal conclusion of obviousness.” (*In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir 2006) (cited with approval in *KSR Int'l v. Teleflex Inc.*, 127 S. Ct. 1727, 1741, 82 USPQ2d 1385, 1396 (2007)).

Claim 1 requires, among other limitations, receiving a quality-of-service profile corresponding to a mobile station. This limitation is not taught or suggested by the art of record. The Examiner alleges that this is taught by Rinne at col. 1, line 43 – col. 4, line 67. Again, the Examiner cites to huge portions of a cited reference without describing exactly on what he relies.

Rinne teaches that “The quality of service (QoS) is defined by a group of QoS parameters defining the quality of service, which parameters include e.g. delay, BER (Bit Error Rate), maximum bit rate and order of service. Thus the requested and negotiated QoS parameters of one PDP context form one QoS profile.” *Col. 1, lines 50-55*. Rinne also teaches that a PDP context is defined to each of the data flows of an application. *Col. 2, lines 55-57*. It is clear from Rinne that a QoS profile is the QoS parameters for a PDP context, and each PDP context corresponds to a specific application, and not to a mobile station, as claimed.

Moreover, the QoS profile is not received, as required by the claims. Rinne teaches that the Quality Management & Optimization Control (OMOC) receives or retrieves the definitions pertaining to the application and on that basis “realizes” the PDP context of the mobile station. *Col. 4, lines 24-29*. The OMOC may also receive “QoS data” that it then “converts” to a QoS profile of the UMTS system. *Col. 4, lines 33-38*.

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Rinne clearly does not teach the limitation of Claim 1 requiring receiving a quality-of-service profile corresponding to the mobile station, as the QoS profile described by Rinne is not taught or suggested to correspond to a mobile station and is not "received", as required. Similarly, Claims 8 and 15 require that a QoS controller receives the quality-of-service profile corresponding to the mobile station from an authorization server, and this is not taught or suggested by Rinne. The Examiner has conceded that this is not taught by Shanbhag, either. As neither Rinne nor Shanbhag teach or suggest these limitations, the rejections of all claims are traversed.

The Examiner responds with a detailed discussion of Shanbhag, not Rinne, without showing that Shanbhag ever teaches a QoS profile, as claimed. Then, on page 6, of the final Office Action, the Examiner clearly concedes that Shanbhag does not "clearly mention" a quality-of-service profile corresponding to the mobile station, as claimed. This is correct. Shanbhag describes the assignment of radio priority based on a subscriber profile parameter which is associated with the subscriber at the wireless client. The subscriber profile is not "received", and cannot be the claimed quality-of-service profile. The "radio priority" is transmitted, but it is not taught to "correspond to a mobile station", so it cannot be the claimed quality of service profile.

The Examiner has simply failed to identify any quality-of-service profile, in any art of record, that is received, corresponds to a mobile station, and according to which the quality-of-service parameters are determined, as claimed.

Claim 1 also requires determining quality-of-service parameters according to the quality-of-service profile and the application information, wherein the mobile station thereafter communicates

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according to the quality-of-service parameters. This is not taught or suggested by the art of record. Shanbhag clearly teaches in paragraph 0023 that a radio priority is assigned based on both the subscriber's level of service and the application pursuant to which the data packet is transmitted, not based on a quality-of-service profile, as claimed. It is not assigned based on any quality-of-service profile received from anywhere, and particularly not from a quality-of-service profile received from an authorization server, as required by claims 8 and 15. Nor does Rinne teach or suggest these limitations, as described above. As neither Rinne nor Shanbhag teach or suggest these limitations, the rejections of all claims are traversed.

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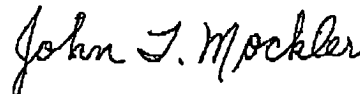
SUMMARY

For the reasons given above, the Applicants respectfully request reconsideration and allowance of the pending claims and that this application be passed to issue. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Applicants respectfully invite the Examiner to contact the undersigned at the telephone number indicated below or at *jmockler@munckbutrus.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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Date: January 14, 2008

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